

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING A BID PROTEST PROCEDURE, AND PROVIDING FOR CODIFICATION, SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. There is hereby created a bid protest procedure, which shall be included in the Code of Ordinances of the City of Fort Lauderdale, Florida, as follows:

Sec. 2-199.1. Bid Protest Procedure

(a) Applicability. This Section shall apply to protests by bidders and proposers when the city manager or a department director recommends a purchase of goods, supplies, equipment, or services that would cost \$10,000 or more.

(b) Procedure.

(1) Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the City to follow the City's procurement ordinance or any applicable law may protest to the Director of the Procurement Services Department ("Director") by delivering a letter of protest to the Director within five (5) days after a Notice of Intent to Award is posted on the City of Fort Lauderdale's world wide web site. The date the letter of protest is received in the Office of the Director shall constitute the date of delivery.

(2) The calculation of days shall exclude Saturdays, Sundays, and holidays observed by the City.

(3) Service of a protest by mail or courier shall not expand the time period allowed for delivery of a protest. In computing any period of time prescribed or allowed by this protest policy, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or holiday observed by the City, in which event the period shall run until the end

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.

of the next business day which is neither a Saturday nor Sunday, nor a holiday observed by the City.

(4) The written protest shall state with particularity the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all pertinent documents and evidence.

(5) A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.

(6) The letter of protest must be accompanied by a non-refundable protest application fee in accordance with the following schedule:

<u>Recommended Purchase Amount</u> <u>Rounded to the Nearest Dollar</u>	<u>Protest Application Fee</u>
<u>\$10,000 to \$25,000</u>	<u>\$50</u>
<u>\$25,001 to \$50,000</u>	<u>\$100</u>
<u>\$50,001 to \$100,000</u>	<u>\$150</u>
<u>Over \$100,000</u>	<u>\$200</u>

The protest application fee must be ~~either a cashier's check, or a~~ certified check, or an attorney's trust account check payable to the City of Fort Lauderdale.

(c) Authority to resolve protests.

(1) The Director shall first have the authority to settle and resolve any written protest. Within seven (7) days from receipt of a timely written protest the Director shall send a written decision to the protesting party via U.S. certified mail upholding or denying the protest or staying the award process for further investigation.

(2) The protesting party may appeal to the City Commission a decision by the Director denying the protest by delivering a notice of appeal to the Director within three (3) days from the protesting party's receipt of the Director's decision. Upon receipt of a timely notice of appeal the Director will schedule the protest for consideration by the City Commission, which may affirm, reverse, or modify the Director's decision.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double-stricken~~ are deletions from the version presented at first reading.

EXHIBIT 1
CAR 10-1690

(3) The City's consideration of a timely written protest shall not necessarily stay the award process, as may be in the best interest of the City of Fort Lauderdale. The Director may recommend to the City Commission to render moot any written protest that is overtaken by events, in which case the City Commission may abate or dismiss such protest.

(d) Timely submittal of a protest or appeal required. Failure of a party to submit timely a written protest to the Director within the time provided in this Section shall constitute a waiver of such party's right to protest pursuant to this Section.

(e) Costs. Any and all costs incurred by a protesting party in connection with a protest pursuant to this Section shall be the sole responsibility of the protesting party.

SECTION 2. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be effective upon its final passage.

PASSED FIRST READING this the _____ day of _____, 2010.

PASSED SECOND READING this the _____ day of _____, 2010.

Mayor
John P. "Jack" Seiler

ATTEST:

City Clerk
JONDA K. JOSEPH

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions; words, symbols, and letters double underlined are additions added after first reading; words, symbols, and letters ~~double stricken~~ are deletions from the version presented at first reading.

EXHIBIT 1
CAR 10-1690